

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PHILLIP SWANKS,

Plaintiff,

v.

JANE DOE, et al,

Defendants.

ORDER

12-cv-702-wmc

The court construes plaintiff's "notice to withdraw" (dkt. #7) as a request for voluntary dismissal of this action albeit with a request for refund of his \$350 filing fee. This case will be dismissed pursuant to Fed. R. Civ. P. 41(a)(1), but no refund is possible.

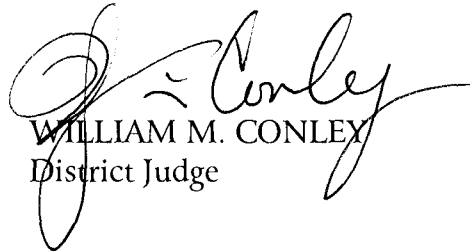
As plaintiff was advised by the clerk's office in a letter dated December 3, 2012, his filing fee is non-refundable. (Dkt. #8). Given that the clerk's office has received nothing in reply to its letter from the plaintiff, this action will be dismissed without prejudice to his filing a new action and the case will be closed.

If the court has misunderstood plaintiff and he *does* want to proceed -- rather than have this action dismissed and lose his filing fee -- he must file a motion for relief from this court's order pursuant to Fed. R. Civ. P. 60(b)(6) (or simply write the court advising of his desire to proceed with this lawsuit, which will be deemed to be such a motion) **within thirty days of this order.**

While plaintiff's *timely* motion will be granted, he will then need to identify the actual defendants **by name** before this court can screen his complaint and issue a summons for plaintiff to serve. Otherwise, this case will remain closed.

Entered this 4th day of December, 2012.

BY THE COURT:



WILLIAM M. CONLEY
District Judge